

Application no. 10/611,769

### REMARKS

Reconsideration and continued examination of the above-identified application are respectfully requested.

The amendments to the claims further define what the applicant regards as his invention and/or are editorial in nature. Full support for the amendments can be found throughout the present application, including the claims as originally filed. Accordingly, no questions of new matter should arise, and entry of the amendments is respectfully requested.

Claims 1-22 and 38-62 remain in the present application. Claims 22-37 and 63-67 have been withdrawn. Claims 1, 62, 39 and 40 have been amended. Claims 1 and 62 are the independent claims in the present application.

Claims 39 and 40 stand rejected for having insufficient antecedent basis. Claims 39 and 40 are amended to remedy an obvious typographical error to provide proper antecedent basis. Claims 49 and 50 are also rejected under 35 U.S.C. § 112, ¶ 2, because the term "closed layer" is indefinite. Applicant respectfully traverses this rejection, and directs the Examiner's attention to page 8, lines 18-23 of the specification where the term "fibrous outer layer" is defined to include open layer/structure and closed layer/structure. In essence, open structure includes lace, where some surface areas are left open, and closed structure is the opposite, *i.e.*, substantially no open area so that the underlying substrate is substantially hidden from view, *e.g.*, knit, woven, nonwoven, *etc.*

Hence, Applicant respectfully requests that the rejections of claims 39, 40, 49 and 50 be withdrawn.

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. 5,902,663 to Justesen et al., U.S. 4,588,629 to Taylor, U.S. 6,162,748 to Schilling et al., U.S. 5,990,377 to Chen et al. Claim 62 stands rejected under 35 U.S.C. § 102(b) or in the alternate under 35 U.S.C. § 103(a) as being unpatentable over Justesen. The dependent claims are rejected either under 35 U.S.C. § 102(b) or under 35 U.S.C. § 103(a) over these references. Applicant respectfully requests reconsideration of the present application based on the amendments above and the remarks stated in details below.

In paragraphs 4 and 5 of the Office Action, the Examiner rejected claim 1 over the Justesen reference. The Examiner states that Justesen discloses polymer-containing pile material (2) retained to a polymer-containing primary backing (3) and that the depressed areas are the legs of pile material (2) embedded in the primary backing (3) and the elevated areas are the tops of

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the extended pile fibers. The Examiner further states that the fibers on the outer surface of the elevated areas are substantially unbonded to the adhesive layer. Applicant respectfully traverses this rejection.

Importantly, Justesen discloses conventional tile carpets, which comprise primary backing (3) and adhesive layer (4), which are different structures, as clearly shown in Figs. 1 and 2. Similar to the other tile or tuft carpets and references disclosing same, the fibrous outer layer in the tile or tuft carpets have yarns that form loops, such as that shown in Fig. 1 of Justesen, or cut yarns that do not form loops, such as that shown in Fig. 2 of Justesen. *Tile or tuft carpets do not have fabrics or sheets, as fibrous outer layers, as claimed in amended claim 1.*

For this reason alone claim 1, as amended, is patentable over the Justesen reference.

In paragraphs 10 and 11, the Examiner also rejects claim 1 over Taylor. The Examiner states that Taylor discloses a fabric suitable for embossing which comprises a thermoplastic substrate with a coating of fibers. The fibers can be compressed into the substrate. The Examiner also states that the points where the fibers are embedded in the backing are the depressed areas and the tops of the extended fibers are the elevated areas.

Claim 1, as amended, is patentable over the Taylor reference for the same reason that claim 1 is patentable over the Justesen reference.

The Examiner further states that Taylor teaches that the fibers on the outer surface in the elevated areas are substantially unbonded to the adhesive layer. Applicant respectfully traverses this interpretation of Taylor by the Examiner. Taylor discloses decorative patches that can be applied to articles of clothing. The fibers or "fibres" 11 are "flock-like material" (col. 1, lines 49) or "chopped fibres such as cotton, nylon, rayon..." (col. 3, lines 8-9), and are very short fibers with "a length of the order of one millimeter" (col. 4, lines 11-12). The fibers of Taylor are single short fibers that are applied to substrate 10 by "electrostatic flocking process" (col. 3, lines 12-13) or "dropped or blown onto the tacky surface" of substrate 10 and "brushed or rolled to give sufficient adhesion (col. 6, lines 41-42). Hence, as taught in Taylor even in the elevated areas, as designated by the Examiner, all the single fibers 11 are bonded to the substrate.

In paragraphs 12 and 13, the Examiner also rejects claim 1 over the Schilling reference. In support of this rejection, the "Examiner takes the position that ... the entire fibrous outer layer has been impregnated with the resin compound." Indeed, the Schilling reference supports the Examiner's position:

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... The woven layer is formed by weaving warp and weft yarns. The resin composition layer is effective for bonding to the warp and weft yarns. The resin composition layer is provided with a resin composition and a cross-linking agent effective to wet, penetrate, and encapsulate the warp and weft yarns. The resin composition layer occupies the interstices of the warp and weft yarns and when the resin is heated, the resin cross-links with the woven layer. ... The resin composition and the cross-linking agent are effective for wetting, penetrating, and encapsulating at least a portion of the warp and weft yarns.

Abstract (emphasis supplied). Applicant respectfully submits that the Schilling reference is incapable of anticipating claim 1 or rendering claim 1 obvious, because claim 1 requires that "the fibers on the outer surface of the fibrous outer layer in the elevated areas are substantially unbonded to the adhesive layer," while Schilling requires that the entire woven outer surface is completely bonded to adhesive layer.

Applicant submits that for this reason alone, claim 1 is also patentable over the Schilling reference.

In paragraphs 16 and 17, the Examiner rejects claim 1 over the Chen reference. The Examiner states that in the Abstract Chen discloses "a resilient absorbent nonwoven web with elevated regions that has [sic] been apertured such that the apertures or openings overlay a portion of the depressed regions." Applicant respectfully submits that the apertured features and their locations with respect to depressed regions disclosed in Chen have no affect on claim 1 of the present invention, because claim 1 does not recite any apertures.

The Examiner also states that Chen discloses a "nonwoven web ... adhered to a backsheet, and comprises pulp fibers including softwood fibers" (col. 3, line 24 to col. 4, line 40, and Fig. 2), and that Chen discloses using pressure sensitive adhesive to join the nonwoven web to the backsheet. Applicant respectfully traverses these interpretations of Chen.

First, a close reading of Chen reveals that Chen discloses a liquid absorbent product comprising "a contoured, inherently hydrophilic basesheet 1, preferably a resilient cellulosic tissue sheet, onto which hydrophobic material 2 has been deposited on the uppermost regions 3 of the contoured basesheet [1] to form a composite absorbent web" shown in Fig. 1. (col. 27, lines 10-16). Chen further explains that "depressed regions 4 of the basesheet [1] are substantially hydrophilic and can serve much as apertures do in an apertured film by providing pore space to receive liquids and by providing regions in the mist of hydrophobic materials [2] where liquid can be wicked into an absorbent medium, the medium being the hydrophilic

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basesheet itself and optionally an underlying absorbent core.” (col. 27, lines 53) This optional absorbent core can be fibrous mat 5 shown in Fig. 2. (col. 27, lines 55-57). In another embodiment, Chen teaches that hydrophobic material 2 can include hydrophobic fibers 50a, 50b, 50c or 50d as shown in Fig. 13. (col. 37, lines 52-62).

Applicant submits that Chen’s contoured, fibrous basesheet 1 (with elevated regions 3 and depressed regions 4) would correspond to a “fibrous outer layer” with “depressed areas and elevated areas”, as claimed in claim 1, and absorbent core/fibrous mat 5 is a backing layer, but mat 5 is not an adhesive layer. Contrary to the Examiner’s interpretation, Chen does not disclose that outer basesheet 1 and lower mat 5 are attached to each other with spray adhesive in Example 15. Example 15 discloses apertured nonwovens that are attached to the top of basesheet 1. (See, col. 47, lines 9-10, lines 39-41 and lines 49-57.) Apertured nonwovens 60, 61 are illustrated in Fig. 14 and are alternatives to hydrophobic materials 2 and hydrophobic fibers 50a-d, discussed above. See Chen, col. 38, line 27 to col. 40, line 25. More specifically, Chen discloses that

a contiguous web of hydrophobic fibers, such as spunbond or meltblown nonwoven web of synthetic fibers, can be especially advantageous for use as the hydrophobic matter ... [T]he nonwoven web should be provided with macroscopic apertures, slits or other openings as shown in Fig. 14 to provide good access to the hydrophilic basesheet for body exudates. The openings or apertures 61 in the nonwoven web 60 should overlay a portion of the depressed region in the hydrophilic basesheet.

(Col. 39, line 62 to col. 40, line 7). Hence, Chen cannot anticipate claim 1 or render claim 1 obvious, because Chen does not disclose an adhesive layer that anchors the fibers of the fibrous outer layer in the depressed areas.

Applicant submits that for this reason alone, claim 1 is also patentable over the Chen reference.

Claims 2-22 and 38-61 depend directly or indirectly on claim 1 and recite further limitation therefrom, and are presently patentable due to their dependency. Applicant reserves the right to independently support the patentability of these dependent claims when necessary.

In paragraphs 6 and 8, the Examiner rejects claim 62 over Justesen because claim 62 has process limitations and the product does not otherwise patentably distinguish over the prior art. While Applicant disagrees with the Examiner that claim 62 contains process limitations, in order to move the prosecution forward Applicant has amended claim 62 to insert the structural element

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"the surface area comprises an embossed, contoured surface with depressed areas and elevated areas on the surface area." Justesen does not an embossed, contoured surface. While Taylor discloses an embossed surface, it does not disclose "loops upstanding from the adhesive layer" as claimed in claim 62. Hence, claim 62 is patentably distinguishable from Justesen and the cited art, and is, therefore, presently patentable.

In view of the foregoing remarks, Applicant respectfully requests the reconsideration of this application and the timely allowance of the pending claims.

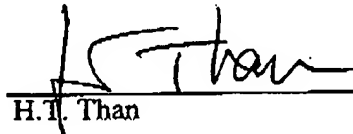
No fee is due in connection with the filing of this response. If fees are necessary, please charge the additional fees to Deposit Account No. 50-1980. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

The Examiner is respectfully requested to contact the undersigned by telephone should there be any remaining questions as to the patentability of the pending claims.

Respectfully submitted,  
The H.T. Than Law Group

Date

July 1, 2005

  
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